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ABSTRACT

This publication is a resource document for developing recommendations concerning the reauthorization of the Higher Education Act. This document describes the eight parts of Title IV, "Student Assistance," and the seven parts of Title IX, "Graduate Programs." Title IV covers the following areas: grants to students in attendance at institutions of higher education; the federal family education loan program; the federal work-study program; the William D. Ford federal direct loan program; the federal Perkins loan program; need analysis; general provisions and statutory requirements; and program integrity. Title IX covers: grants to institutions to encourage women and minority participation in graduate education; the Patricia Roberts Harris fellowship programs; the Jacob K. Javits Fellows program; graduate assistance in areas of national need; the faculty development fellowship program; assistance for training in the legal profession; and law school clinical experience programs. (CK)

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Building for Reauthorization

Highlights of the 1992 Amendments

HE029476

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August 1996

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National Association of Student Financial Aid Administrators

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August 14, 1996

Dear NASFAA Member:

Building for Reauthorization: Highlights of the 1992 Amendments is our second document to assist in your reauthorization efforts. Looking at the Higher Education Act (HEA) and at what modifications the Congress made during the last reauthorization process is a useful starting point in developing your recommendations for changes in the HEA.

This publication contains highlights from the 1992 reauthorization bill that became law for Titles IV and IX. We need to address two issues. First, the document reflects the 1992 reauthorization bill only. It does not reflect any changes made by the Congress subsequently, with the exception of Part D--the William D. Ford Direct Loan Program. We have done this so that one could see unvarnished by any further modification of the HEA what the Congress intended to do in 1992. Second, this document does not contain a summary of Part F--Need Analysis. This is the case because the Reauthorization Task Force does not have responsibility for those provisions in the HEA. Any need analysis recommendations will come from our Need Analysis Standards Committee.

We urge you to use this document and the prior publication, *Building for Reauthorization: Background and Analysis July 1996*, as resources to begin your reauthorization work. We urge you to become involved in NASFAA's reauthorization work so that we may forward our best thinking to the Congress on change to benefits students and our schools

Sincerely,

Dallas Martin
President

John Curtice
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Examining the Higher Education Act

The Act is a logical point to develop ideas for changes that you recommend to improve the operations, scope, and effectiveness of the law. The June 1994 copy, plus the January 1995 insert is the most current NASFAA version of the Higher Education Act. Please understand that the Department of Education's regulations usually parallel or are responsive to provisions of the HEA. In other words, if you want to change an annoying regulation, in most cases, you need to change the law first.

This publication is a resource document for first steps in developing your reauthorization recommendations and complements the NASFAA publication *Building for Reauthorization: Background and Analysis, July 1996* that you have already received. This document gives a brief overview of Title IV and Title IX programs followed by a review of the changes made by the 1992 Amendments. We intend this canvass of the changes made by P.L. 102-325 will stimulate your thinking by understanding the recent modifications in the Act.

Introduction

The current Higher Education Act (HEA) consists of 12 separate Titles which are as follow:

Title I--Partnerships for Educational Excellence
Title II--Academic Library and Information Services
Title III--Institutional Aid
Title IV--Student Assistance
Title V--Educator Recruitment, Retention, and Development
Title VI--International Education Programs
Title VII--Construction, Reconstruction, and Renovation of Academic Facilities
Title VIII--Cooperative Education
Title IX--Graduate Programs
Title X--Postsecondary Improvement Programs
Title XI--Community Service Programs
Title XII--General Provisions

Of these twelve separate Titles, Title IV--Student Assistance and Title IX--Graduate Programs, are the ones of the greatest interest to NASFAA members, since these authorize each of the individual programs administered by the U.S. Department of Education's Office of Postsecondary Education (OPE).

Title IV consists of eight Parts. Many of these Parts are subdivided into Subparts and Chapters; a brief description of each follows.

TITLE IV--STUDENT ASSISTANCE

PART A - GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

This Part is separated into eight Subparts:

Subpart 1 - Basic Educational Opportunity Grants:

Grants made under this subpart are known as "Federal Pell Grants" and are awarded to undergraduate students who demonstrate financial need in accordance with a predefined calculation of eligibility. Pell Grants serve as the "foundation" for the other Federal student grant, work, and loan programs. Students apply directly to the Federal Government for a determination of eligibility based on a national formula. The formula considers income, assets, family size, number of family members enrolled in postsecondary education, and other indicators of a family's financial strength. Upon notification of eligibility, students may use their grants at any eligible postsecondary institution. Pell Grants are distributed by the institution to the student. The amount of the grant is reduced proportionally if the student is not attending school full-time.

As reauthorized by P.L. 102-325, the maximum Pell Grant that a student potentially could receive would be as follows:

- $3,700 for academic year 1993-94
- $3,900 for academic year 1994-95
- $4,100 for academic year 1995-96
- $4,300 for academic year 1996-97
- $4,500 for academic year 1997-98

Through the 1996-97 award year, however, appropriations legislation has revised the maximum Pell Grant award amounts as follows:

- $2,300 for academic year 1993-94
- $2,300 for academic year 1994-95
- $2,340 for academic year 1995-96
- $2,470 for academic year 1996-97

P.L. 102-325 authorized the program at "such sums as may be necessary" through September 30, 1998. Actual Federal Pell Grant Program appropriations for FY-96 were $5.747 billion providing for a $2,470 maximum award.

In the last reauthorization, several other changes also were made to the Pell Grant Program. The most significant changes are as follows:

- **Name.** The program was renamed *Federal Pell Grants* and established as Subpart 1 of Part A

of Title IV.

♦ **Minimum grant.** The 1992 Amendments increased the minimum grant to $400; however, students, eligible for a Federal Pell Grant that was greater than or equal to $200, but less than $400, received an award of $400.

♦ **General award rule.** Under terms of the HEA, award amounts were equal to the maximum award minus the EFC.

♦ **Award rules for maximum awards greater than $2,400.** The Federal Pell Grant formula became tuition-sensitive by providing that, when the maximum grant was greater than $2,400, any increases above that amount would be divided equally between tuition and an education allowance. If the maximum Federal Pell Grant was in excess of $2,400, the amount of a student's award would be $2,400 plus one-half of the amount of the difference between $2,400 and the maximum award, plus the lesser of (1) the remaining one-half of the difference, or, (2) the sum of the student's tuition and $750 if the student had dependent care expenses or disability related expenses. This provision has not been invoked.

♦ **Child care or disability expense allowance.** P.L. 102-325 provided that a $750 allowance for child care or disability-related expenses may be added to the tuition component of the Federal Pell Grant award rules when the maximum award was greater than $2,400.

♦ **Less-than-half-time student eligibility.** Federal Pell Grant eligibility was extended to all less-than-half-time students.

♦ **Exception to maximum grant amount.** The Secretary may grant an institution authority to award two Federal Pell Grants in an academic year on a case-by-case basis provided that: the student enrolled full-time in a baccalaureate program of study of two years or more (measured in credit hours) at an eligible institution; and the student completed course work toward completion of a bachelor's degree that exceeded the requirements for a full academic year as defined by the institution.

♦ **Study abroad maximum award amounts.** P.L. 102-325 provided that if a student enrolled at an eligible institution participating in a study abroad program with reasonable program costs greater than the cost of attendance at the student's home institution, the Secretary shall allow an award up to the maximum award to account for such increased study abroad costs. A financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost to determine the student's cost of attendance.

♦ **Insufficient appropriations.** If the Federal Pell Grant Program appropriations were insufficient, the Secretary was to report to the Congress the amount of any funding shortfalls. The Secretary was then free to develop any means to rectify such shortfall. The law does not mandate a linear reduction schedule as was the case prior to the 1992 reauthorization.

♦ **Methodology.** The separate Federal Pell Grant methodology was eliminated; the single methodology found in Part F calculates the expected family contribution that will be used; the award rules specified above will be used to determine a student's Federal Pell Grant award amount.

Subpart 2--Federal Early Outreach and Student Support Services

Chapter 1--Federal TRIO Programs

♦ **Authorization.** The Federal TRIO Programs (Talent Search, Upward Bound, Student Support Services, McNair Postbaccalaureate Achievement Program, Educational Opportunity Centers, and Staff Development Activities) were reauthorized for five years at $650 million in FY-93 and such sums in following years. Under each program, discretionary grants are awarded to institutions or agencies to encourage and assist disadvantaged youth, primarily from low-income families, who have the potential to complete a postsecondary education. FY-96 TRIO appropriation was $463 million.

Chapter 2--National Early Intervention Scholarship and Partnership Program

♦ **Activities authorized.** P.L. 102-325 established this program encouraging states, (1) to provide or maintain a guarantee to eligible low-income students who obtain a high school diploma, or its equivalent, of financial assistance for their enrollment at a postsecondary education institution; (2) grants incentives to states, in cooperation with local education agencies, postsecondary institutions, community organizations, and business to provide additional counseling mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary students who are at risk of dropping out of school; and (3) to provide information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

♦ **Authorization/appropriation.** For FY-93, $200 million was authorized for this program. FY-96 appropriation was $3.108 million.

Chapter 3--Presidential Access Scholarships

♦ **General information.** P.L. 102-325 created a new program, "Presidential Access Scholarships," to be awarded Federal Pell Grant recipients, who participated in a preparatory postsecondary education program, and demonstrate academic achievement.

♦ **Amount of award.** Eligible recipients receive an amount equal to 25 percent of the Federal Pell Grant that the recipient was awarded for that year or $400 whichever was greater. If funds were not available to fully fund awards for eligible recipients, then the Secretary shall pay each student a proportionately reduced award. A Presidential Access Scholarship, combined with any other Title IV assistance, may not exceed the student's cost of attendance.

♦ **Period of award.** Student eligibility was set at four academic years, or in the case of a student enrolled in an academic program requiring five years of full-time attendance, five academic years.

♦ **Authorization of appropriations/Appropriation.** $200 million was authorized for FY-93 and such sums for the out-years. The program was not funded in FY-96.

Chapter 4--Model Program Community Partnership and Counseling Grants

♦ **Authorization/Appropriation.** P.L. 102-325 authorized $35 million for FY-93 and such sums for the following years for model programs providing grants to community partnerships to provide mentoring, tutoring and support services, as well as information on colleges and available financial aid tailored to the unique needs of special populations of students. The program was not funded in FY-96.

Chapter 5--Financial Aid Database and Public Information

♦ **Authorization.** P.L. 102-325 provided an authorization of $20 million for FY-93 and such sums in the out-years for two purposes: (1) The law required the Secretary to award a contract to establish and maintain a computerized database of all public and private financial assistance programs. The database must be accessible to schools and libraries through either modems or toll-free telephone lines. Also, the law required the Secretary to establish a toll-free information line, including access by telecommunications devices for the deaf (TDD's), providing financial assistance information to parents, students, and other individuals, including individuals with disabilities. (2) The law authorized the Secretary to enter into contracts with appropriate public agencies, non-profit private organizations, and postsecondary institutions to conduct an information program designed to broaden the early awareness of postsecondary education opportunities and to encourage economically disadvantaged, minority, or at-risk individuals to seek higher education, and to seek higher education and financial assistance counseling at public schools and libraries.

Chapter 6--National Student Savings Demonstration Program

♦ **General information.** P.L. 102-325 authorized the creation of a demonstration program testing the feasibility of establishing a national student savings program encouraging families to save for their children's college education and, thereby, reducing the loan indebtedness of college students.

♦ **Authorization/Appropriation.** The Secretary was authorized to award a demonstration grant to not more than five states. The amount of each grant was computed on the basis of a federal match in an amount equal to the initial state deposit into each student account not to exceed $50 per child, multiplied by the number of children participating in the program. The Secretary would award grants giving priority to states proposing programs that establish accounts for a child prior to the age of compulsory school attendance, that permit employers to use pre-tax

income in making contributions to a child's account, and exempt the interest earned from state taxes. Each state shall apply to the Secretary and meet specified requirements. The FY-93 authorization was $10 million with such sums in the out-years. FY-96 appropriation was $0.

Chapter 7--Pre-eligibility Form

♦ **Authorization.** The Secretary, to help ensure postsecondary access by providing early notice to students of their potential eligibility for financial aid, was authorized to (1) develop and process a common pre-eligibility federal financial aid form; (2) distribute and process the form free of charge to students and parents; and, (3) issue, on the basis of reported information, a pre-eligibility expected family contribution figure and an estimate of the amount of federal and, if feasible non-federal, funds for which the student might qualify in later completing and submitting a Free Application for Federal Student Aid. The Secretary was required to widely disseminate the pre-eligibility form through post offices, other federal installations, schools, postsecondary institutions, libraries, and community-based agencies.

Chapter 8--Technical Assistance for Teachers and Counselors.

♦**Authorization.** The Secretary was authorized to award grants to local education agencies to use for the purpose of obtaining specialized training for guidance counselors, teachers, and principals to counsel students about college opportunities, pre-college requirements, the college admissions procedure, and financial aid opportunities.

Subpart 3 - Federal Supplemental Educational Opportunity Grants (FSEOG)

This subpart authorizes the Federal Supplemental Educational Opportunity Grant Program, which provides grant assistance to undergraduate students demonstrating exceptional financial need. The exceptional financial need criterion was defined in the 1986 reauthorization as giving priority to students with the lowest expected family contributions at the school who are Federal Pell Grant recipients. Federal SEOG awards, a supplement to Federal Pell Grants, may range in size from $100 to $4,000. Funds are allocated by formula among states and distributed to participating schools. P.L. 102-325 authorized the program at $675 million for FY-93, and "such sums as may be necessary" for the four succeeding fiscal years. The FY-96 appropriation for the program was $583.4 million.

Other FSEOG changes that were made in the 1992 Act were:

♦ **Name.** The program was renamed *Federal Supplemental Educational Opportunity Grants* and established it as Subpart 3 of Part A of Title IV.

♦ **Excess appropriations.** The law provided that in any fiscal year in which the FSEOG appropriation exceeded $700 million, not more than ten percent may be allocated by the Secretary to institutions at which 50 percent or more of their Federal Pell Grant recipients graduate or transfer to a four-year institution, provided these students do so within a reasonable

time frame.

♦ **Use of funds for nontraditional students.** P.L. 102-325 mandated a reasonable proportion of the institution's allocation must be made available to such students, if an institution's FSEOG allocation was directly or indirectly based in part on the financial need demonstrated by independent students or those attending less-than-full-time. If the total financial need of such students exceeded five percent of the need of all students attending the institution, then at least five percent of the school's allotment was to be made available to these students.

♦ **Institutional match.** The institutional matching requirement was increased to 25 percent. The Federal share may be increased if the Secretary issued regulations establishing objective criteria for making such a determination.

♦ **Return of allocated funds.** The 1992 Amendments required that if an institution returned more than 10 percent of its FSEOG allocation, its allocation for the next fiscal year be reduced by the amount returned. The Secretary can waive this provision for a specific school if its enforcement was contrary to the interest of the program.

♦ **Study abroad awards.** All reasonable costs associated with study abroad programs for credit at the home institution for students enrolled at an eligible institution were to be considered in determining eligibility and such awards may exceed the specified $4,000 maximum award level by as much as $400 if such reasonable costs exceeded the cost of attendance at the home institution.

♦ **Transfer of funds.** P.L. 102-325 allowed up to 25 percent of Federal Work-Study Program and/or Federal Perkins Loan Program funds to be transferred to the FSEOG Program, however, FSEOG funds may not be transferred to any other program.

Subpart 4 - Grants to States for State Student Incentives (SSIG)

This subpart authorizes grants to states to encourage them to establish and maintain grants to students attending postsecondary institutions. It also authorized grants to eligible students for campus-based community service work-learning study. Participating states were required to match each federal dollar received on a $1 for $1 basis. The SSIG Program had an authorization of $105 million for Fiscal Year 1993 and "such sums as may be necessary" for the four succeeding years. The FY-96 appropriation for the program was $31.375 million, a $32 million reduction from the prior fiscal year.

Other significant changes made to the SSIG Program in the 1992 Act are as follows:

♦ **Maximum award.** The maximum allowable SSIG award increased from $2,500 to $5,000.

♦ **Study abroad eligibility.** SSIG funds may be awarded to students participating in programs of study abroad that were approved for credit by the institution.

♦ **Application fees.** P.L. 102-325 provided that no student or parent shall be charged a fee that was payable to an entity other than such state for the purpose of collecting data to make a determination of financial need for recipients of the SSIG Program or for SSIG work-study jobs.

♦ **Use of funds for nontraditional students.** A reasonable proportion of the state's allocation must be made available to such students, if the state's SSIG allocation was directly or indirectly based in part on the financial need demonstrated by independent students or those attending less-than-full-time.

Subpart 5 - Special Programs for Students Whose Families are Engaged in Migrant and Seasonal Farmwork

This subpart authorized two special programs: High School Equivalency Program (HEP) and College Assistance Migrant Program (CAMP). Grants were awarded to institutions of higher education or private non-profit organizations to provide basic skill instruction, counseling, tutorial assistance, and educational outreach and recruitment. The authorization level contained in P.L. 102-325 for the two programs was $20 million for FY-93 and "such sums as may be necessary" for the four succeeding fiscal years.

Subpart 6 - Robert C. Byrd Honors Scholarship Program

This subpart authorized a scholarship program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

Major changes in Subpart 6 include the following:

♦ **Period of award.** P.L. 102-325 increased the period of award for Byrd Scholarships to four years and clarified scholarships may be used at any eligible postsecondary education institution.

♦ **Authorization/Appropriation, Allocation formula and other changes.** The 1992 Amendments changed the allocation formula so that each state received a proportion of the total scholarships awarded that bears the same ratio as the number of children aged 5-17 in the state bears to all such children in the nation. The requirement for a Byrd Scholar from each congressional district was repealed and replaced by a requirement for a general geographic distribution of awards within a state. A requirement for a minimum of ten scholarships per state was instituted. The authorization for administrative expenses was repealed. The award ceremony requirement was repealed. Finally, P.L. 102-325 changed prior law requiring Byrd Scholarships to be considered in the awarding of Title IV aid. The authorization was increased to $10 million in FY-93 and "such sums" in the out-years. FY-96 appropriation was $29.117 million.

Subpart 7--Assistance to Institutions of Higher Education

♦ **Payments to Institutions of Higher Education.** This unfunded authority was repealed by P.L. 102-325. Using a complex formula, this section of the HEA provided postsecondary

institutions with "cost of education payments." When enacted in 1972, this provision was a recognition by the Congress that schools needed assistance to defray instructional expenses for Federal Pell Grant recipients. When this subpart was last part of the HEA, it would have provided a cost of education payment to schools of $500 for each Federal Pell Grant recipient. A sliding formula reduced the Federal Pell Grant recipient allowance according to the size of the student body at the school.

♦ **Veterans Education Outreach Program.** Program was repealed by P.L. 102-325. When this subpart was last part of the HEA, it provided payments to institutions to defray educational costs and provide services for specified classes of veterans both individuals enrolled and those seeking enrollment in postsecondary institutions. In order to receive a grant under this program, the institution must have had at least 100 undergraduates in attendance who were honorably discharged veterans. The school must maintain an office of veterans affairs, and conduct outreach, counseling, and tutorial assistance to its veteran population.

Subpart 8--Special Child Care Services for Disadvantaged College Students

♦ **Authorization.** This program authorized grants to institutions to provide special child care services to disadvantaged students. It was reauthorized and the funding authorization was increased to $20 million in FY-93 and "such sums" in the following years. The program was not funded in FY-96.

PART B - FEDERAL FAMILY EDUCATION LOAN PROGRAM (FFEL)

Part B authorizes the Stafford Loan, both subsidized and unsubsidized, PLUS, and Consolidation loan programs, and the Student Loan Marketing Association (Sallie Mae). The FFEL Program and the William D. Ford Federal Direct Loan Program are the only major Federal education programs that are considered true "entitlement" programs, since they require the Congress to provide sufficient appropriations each year in order to meet the various interest, default, insurance, and other financial obligations incurred on behalf of student and parent borrowers.[1]

Stafford Loan (formerly Guaranteed Student Loan) Program. This program provides low-interest student loans, through banks and other participating lenders. Federal Stafford Loans are guaranteed and are either federally subsidized or unsubsidized. For the subsidized student loan program, the Federal Government assists student borrowers through interest subsidy payments with the payment of their Stafford Loan interest while in-school, and to a lesser extent, after leaving school. For the unsubsidized student loan program, the Federal Government does not pay

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[1] The General Accounting Office (GAO) has defined "entitlements," in part, as "legislation that requires the payment of benefits (or entitlements) to any person or unit of the government that meets the eligibility requirements established by such law. Authorizations for entitlements constitute a binding obligation on the part of the Federal Government, and eligible recipients have legal recourse if the obligation is not fulfilled." (GAO, A Glossary of Terms Used in the Federal Budget Process, 3rd edition, March 1981, page 57).

the interest on behalf of the student. Instead the borrower pays all the interest that accrues throughout the life of the loan including while the borrower is enrolled at an eligible program of study at an eligible school. In addition, the Federal Government also "guarantees" to lenders up to 100 percent of the amount of any unpaid Stafford Loan principal in the event of borrower death, disability, bankruptcy, or default.

For FY-96, Congress appropriated $3.309 billion for the program, which is expected to cover new loan volume of $14.6 billion during the 1996 fiscal year. Parts B and D loan programs are the only Title IV programs that are not forward-funded. They are current fiscal year programs because they are entitlement programs.

In the last reauthorization, several changes were made to Part B. Some of the more significant were:

♦ **Title renamed.** P.L. 102-325 changed the title of Part B to "Federal Family Education Loan Program."

♦ **Federal added to program names.** The 1992 Amendments renamed programs as *Federal Stafford Loan Program*, as well as, *Federal PLUS*, and *Federal Consolidation loans*.

♦ **Part B Loan limits.** P.L. 102-325 modified loan limits as follows:

Stafford Loan limits. The revised HEA retained the current annual loan limit of $2,625 for first-year students. It increased annual limit for full-time second-year students from $2,625 to $3,500. It increased annual limit for full-time undergraduate students who have completed two years from $4,000 to $5,500. The new law increased annual limit for full-time graduate students from $7,500 to $8,500. It retained current law provision giving the Secretary authority to increase annual loan limits in narrow cases.

Stafford Loan limit proration by program length. P.L. 102-325 provided for proration of Stafford Loan limits for programs less than one academic year in length using a complex legislative formula.

PLUS Loan limit. P.L. 102-325 increased the annual limit from $4,000 to the cost of education minus other aid. PLUS was limited to parents who do not have an adverse credit history and late payments on outstanding obligations were not to be considered as having an adverse credit history.

♦ **Special Allowance Payment.** The 1992 reauthorization changed the special allowance for lenders to T-Bill + 3.1 percent.

♦ **Stafford interest rate.** The final bill changed the interest rate to students to a variable rate of T-Bill + 3.1 percent with a cap of 9 percent for Stafford Loans effective for new borrowers after October 1, 1992.

♦ **PLUS interest rate cap.** P.L. 102-325 reduced the cap on PLUS loan interest rates to 10 percent for any loan for which the first disbursement was made on or after October 1, 1993.

♦ **Windfall provision on interest rates.** P.L. 102-325 provided for a "windfall" provision on eight percent loans when the T-bill plus 3.1 percent was less than eight percent. During any period in which the borrower was eligible to have interest payments made on his behalf by the government, the excess was credited to the government. During any period in which the borrower was paying eight percent, the excess was credited to the borrower's account. In any case where the "windfall" provision was applicable, the lender may fulfill the requirement by reducing the borrower's final payment on the loan. Lenders were not required to make additional disclosures because of the operation of the "windfall" provision. This provision applied for new loans to current and former borrowers, who had outstanding balances and on the date of entering into a note or other written evidence of a new loan made on or after the date of enactment of these amendments, or for new borrowers on that date.

♦ **SLS and PLUS origination fees.** The 1992 reauthorization bill levied five percent origination fees on SLS and PLUS loans effective October 1, 1992.

♦ **Use of origination fees.** P.L. 102-325 provided that all origination fees were to be used in the student loan insurance fund, rather than reverting to the U.S. Treasury.

♦ **Loan deferments.** P.L. 102-325 consolidated all Stafford loan deferments as follows: (1) are in-school at least half-time; (2) are unemployed and the deferment is available for up to three years; and (3) have economic hardship and the deferment is available for up to three years, defined pursuant to regulations by the Secretary, who shall consider income and debt to income ratio as primary factors in promulgating the regulations which are subject to negotiated rule-making, except that those who work full-time and earn an amount which does not exceed the greater of the minimum wage or an amount equal to 100 percent of the poverty line for a family of two or the borrower meets such other criteria of economic hardship established by regulation qualify under the economic hardship deferment; and, (4) provides that requests for deferment by students in graduate or postgraduate fellowship-supported study outside the United States shall be approved through the term of the fellowship. The 1992 law clarified the Secretary shall pay accrued interest on Stafford deferments. It extended in-school deferments to all students who are attending a Title IV eligible institution whether or not that institution participates in the loan program, e.g. an institution that does not participate in the Stafford Loan Program, ceased participation, or was made ineligible for Stafford participation because of cohort default rates in excess of the eligibility trigger rates. P.L. 102-325 rescinded a prior requirement that a student enrolled on a half-time basis must borrow again in order to obtain a deferment. It eliminated from the prior law definitions for totally and permanently disabled and parental leave. Finally, the new deferment changes affected only new borrowers on the date such individual applies for a loan for loans for which the first disbursement was made on or after July 1, 1993.

♦ **Forbearance.** P.L. 102-325 provided that forbearance take the form of a temporary cessation of payment, unless the borrower opts for an extension of time or smaller payments. In addition,

guaranty agencies may permit parties to a loan to enter into forbearance agreements solely because the loan was in default, permitted forbearance for borrowers who were delinquent at the time of the granting of an authorized period of deferment, and required the Secretary to permit administrative forbearance for borrowers whose loans were sold or transferred, provided the borrower was less than 60 days delinquent. Further, lenders, in specified circumstances, may exercise forbearance without the consent of the borrower. P.L. 102-325 allowed lenders to exercise administrative forbearance. It allowed up to three years of forbearance for borrowers whose debt burden equals or exceeded 20 percent of gross income and clarified that the current forbearance for medical residents must be given when the borrower so requests.

♦ **Unsubsidized Stafford Loan.** The 1992 legislation created an unsubsidized Stafford Loan Program so that all students, regardless of income, would be able to obtain a student loan. The terms and conditions such as loan limits, deferments and interest rates with few exceptions would be the same as Stafford Loans. Students, however, would pay the interest during in-school and deferment periods. Interest accruing during those periods may be paid or capitalized as agreed by the borrower and lender. Where practicable, a guaranty agency shall use a single application form for subsidized and unsubsidized Stafford Loans. Students would also pay an origination/insurance fee of 6.5 percent. Special allowance may be paid on such unsubsidized loans.

♦ **Overawards.** P.L. 102-325 provided that overawards permitted under the College Work-Study Program were not to be construed as overawards for Part B loans.

♦ **Graduated or income-sensitive repayment.** The reauthorized law required lenders, not more than six months before the beginning of the repayment period, to offer FISL, Stafford or SLS borrowers the option of graduated or income-sensitive repayment, according to a schedule established by the lender and approved by the Secretary.

♦ **Income contingent repayment of certain loans.** P.L. 102-325 required the Secretary to establish, by regulation, terms and conditions for income contingent repayment of certain loans. The law stated the regulations shall specify repayment schedules, permit write-off of the remaining obligation on loans after 25 years, and may provide for collection of amounts in excess of the original principal and interest owed. The Secretary shall enter into contracts with private firms or government agencies for collections, and the regulations will not be effective unless the Secretary publishes a finding that the collection mechanisms established will provide a high degree of certainty of collection and will result in an increase in the net amount the Government will collect. A loan was subject to income contingent repayment if (1) it contains notice in the note that it is subject to such repayment, (2) was assigned to the Secretary to collect, and (3) the Secretary published the necessary finding. Also, the reauthorized HEA required that each promissory note contain notice that repayment after default may be on an income-contingent basis.

Further, P.L. 102-325 authorized the Secretary to acquire loans of high-risk borrowers who submit a request for an alternative repayment option and offered such borrowers options

including graduated or extended repayment and income-contingent repayment. The provision was effective if the Secretary established a collection mechanism that provides a high degree of certainty that collections will be made on an income-contingent basis and that use of such option and mechanism increases the net amount the Government collects.

♦ **Discharge of loans at closed schools.** The 1986 reauthorization provided for the discharge of loans for borrowers at closed schools. The 1992 Amendments clarified that this provision applied to loans falsely certified, that the amount discharged included interest and collection fees, that the Secretary pursued claims after discharging the loan, that the Secretary can pursue claims against affiliates or principals of institutions, and references the bonding authority and tuition reserve funds language as funds to reimburse the Secretary for discharging the loan. P.L. 102-325 intended the Secretary discharge loan amounts that borrowers had used for educational expenses. The Secretary may pursue claims against borrowers to collect loan funds in instances where the Secretary can document that the money was not used for educational expenses. The student's period of attendance at a school at which the student was unable to complete his or her course of study due to its closing shall not be considered for calculating the student's period of eligibility for additional Title IV aid. A borrower whose loan has been discharged under this provision was not precluded from receiving additional federal aid, if eligible, but for the default on such discharged loan.

♦ **Discharge of PLUS Loan.** Under the provisions of P.L. 102-325, the Secretary must discharge the parent's liability for a PLUS loan if the student on whose behalf the parent borrowed died.

♦ **Employer repayment of loans.** The law provided that the Secretary undertake a program to encourage employers, public and private, to assist borrowers in repaying their student loans and publicize model programs and innovative approaches in this area. The Secretary, within one year of the date of enactment, was required to recommend to the appropriate Congressional committees changes in statutes in order to further encourage such efforts.

♦ **Stafford Loan cancellation.** P.L. 102-325 authorized $10 million in FY-93 and such sums in the next four years for a program of Stafford Loan forgiveness for among others teachers, nurses, and individuals performing community services to test the effectiveness of loan forgiveness. The provision applied only to Stafford Loans, excluding SLS, PLUS, and Consolidation Loans, for any new borrower after October 1, 1992. Finally, the borrower must (1) be a full-time teacher in a school which qualified for a Federal Perkins Loan cancellation and teach math, science, foreign languages, special education, bilingual education, or any other field of expertise where the state educational agency determined there was a shortage of qualified teachers; or (2) agreed in writing to volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of the IRS Code; or (3) was employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center, or in an acute care or long-term care facility. Loans are canceled in the following fashion: (A) 15 percent of the total

amount of Stafford Loans incurred by the student borrower during the borrower's last two years of undergraduate education for the first or second academic year in which such borrower meets eligibility requirements; (B) 20 percent of the total amount for the third and fourth academic year; and (C) 30 percent of the total amount for such fifth academic year.

♦ **Consolidation Loan repayment schedule.** P.L. 102-325 increased the minimum Consolidation Loan from $5,000 to $7,500 and modified the Consolidation Loan repayment schedule as follows:

$7,500-$9,999: 12 years;
$10,000-$19,999: 15 years;
$20,000-$39,999: 20 years;
$40,000-$59,999: 25 years;
$60,000 + : 30 years.

♦ **Consolidation Loan changes.** P.L 102-325 allowed delinquent and defaulted borrowers, who enter repayment through loan consolidation, eligibility for Consolidation Loans. It allowed borrowers 180 days after receipt of their consolidation loan to add additional loans that may have been omitted from the consolidation. Further, married students were made eligible for Consolidation Loans if they together have eligible student loans. The law provided for interest benefits to be paid by the Secretary during any period for which the borrower was eligible for deferral. The reauthorization legislation required that lenders offer graduated and income-sensitive repayment terms to Consolidation Loan borrowers.

♦ **Default rate ineligibility trigger.** P.L. 102-325 reduced the threshold percentage for institutional eligibility based on default rates for three consecutive years from 30 percent in FY-93 to 25 percent thereafter.

♦ **Default rate calculation for schools with few borrowers.** P.L. 102-325 modified the cohort default rate calculation for institutions with less than 30 borrowers entering repayment each year from the prior law's three-year average to the percentage of such current and former students who entered repayment on such loans in any of the three most recent fiscal years.

♦ **Default rate for institutional lenders.** For an eligible institution to be an eligible lender, in addition to the prior law's requirements, P.L. 102-325 mandated the school not have a cohort default rate above 15 percent and required institutions to use special allowance and interest payments for need-based grants, except for reasonable reimbursement for administrative expenses.

♦ **Defaulted loan rehabilitation.** Each guaranty agency was to establish, under provisions of P.L. 102-325, a program allowing a defaulted borrower the opportunity to renew their Title IV eligibility upon the individual's making six consecutive monthly loan payments. The guaranty agency was not to demand a monthly payment in an amount more than is reasonable and affordable based on the borrower's total financial circumstances.

♦ **Department default reduction activities.** The Department was authorized $25 million in FY-93 and such sums in the following years to expend in default reduction management activities resulting in a performance measure reducing defaults by five percent relative to the prior year. This provision's allowable activities included program reviews, audits, debt management programs, training activities, and other such activities approved by the Secretary in accordance with a plan submitted by the Secretary accompanying the Administration's annual Budget submission.

♦ **Annual default rate list.** P.L. 102-325 required the Secretary annually publish a list with the annual default rate for each lender, guaranty agency, holder of loans, and an average default rate for all institutions within each state.

♦ **Delinquent student lists.** Upon request, institutions may receive lists from guaranty agencies to comment on the list's accuracy of their students who were listed as delinquent in loan repayment for which preclaims assistance was requested. Such lists consist of only borrowers who last attended the institution. Institutions may be charged a reasonable fee for lists, but the guaranty agencies must use information provided to them by the institution. Institutions were required to use this information only to assist the school in reminding students of their obligation to repay student loans and were prohibited from disseminating the information for any other purpose.

♦ **Credit report.** P.L. 102-325 required consumer credit reporting agencies report any subsequent default in the case of a borrower who entered repayment after a default.

♦ **Notification of sale of loan.** The 1992 Amendments required a lender to promptly notify the borrower and the guaranty agency and, on request by an eligible institution, the guaranty agency shall notify the last institution attended (prior to the beginning of the repayment period) by the borrower, of any sale or transfer of a loan and the address and phone number of the new holder. This provision applied only if the borrower was in the grace or repayment period, and if the sale or transfer resulted in a change in the borrower's making payments or directing communications. Within 45 days, the transferor and transferee must separately notify the borrower of the sale, the identity of the new holder, the name and address of the party to whom subsequent payments or communications must be sent, and the phone numbers of the parties involved in the transaction.

♦ **Guaranty agency stability.** P.L. 102-325 required the Secretary annually report to Congress assessing the fiscal soundness of the guaranty agency system along with recommendations for any changes necessary to maintain a strong system.

♦ **Termination of guaranty agency.** The reauthorized HEA mandated the Secretary of Education establish management plans for financially weak guaranty agencies ensuring stability in the program and establish standards of guaranty agency financial strength. It authorized the Secretary to terminate a guaranty agency's agreement if it failed to submit an acceptable management plan, if the agency failed to substantially improve its administrative and financial condition, or if the agency was in danger of financial collapse. If the Secretary terminated such

an agreement the Department must assume all guaranty agency functions. In performing such functions, he may (1) permit the transfer of guarantees to another agency; (2) require the merger, consolidation, or termination of the agency; (3) transfer guarantees to the Department; (4) design and implement a plan to restore the agency's viability; or (5) take any other necessary action. The Secretary had the further option of providing the guaranty agency with additional advance funds to assure the uninterrupted payment of claims, with restrictions deemed appropriate. P.L. 102-325 prohibited the Secretary from terminating any guaranty agency backed by the full faith and credit of its State. The new law allowed holders of loans, insured by a guaranty agency determined by the Secretary to be insolvent, to submit its claims directly to the Secretary. The Secretary could make emergency advances to guaranty agencies in order to enable them to pay lender claims.

♦ **Lender-of-last-resort.** P.L. 102-325 required guaranty agencies develop rules and operating procedures for lender-of-last-resort programs designed to ensure facilitated applications by students, provide widespread information about loan availability, and provide appropriate borrower counseling. It required guaranty agencies to notify the Secretary of the possible need for the Secretary to allow Sallie Mae to make lender-of-last-resort loans.

♦ **Consequences of LS&T action.** P.L. 102-325 provided for expedited Limitation, Suspension, and Termination (LS &T) procedures, applied nationally to an institution and its branches. It authorized a guaranty agency to limit the total number or volume of loans made to students attending a particular institution and to limit, suspend, or terminate an institution's eligibility under regulations by the Secretary or agency regulations that are substantially the same. Also, the new law authorized guaranty agency action if a state constitutional prohibition affected eligibility; if the institution failed to make timely refunds or failed to satisfy a judgment for a refund brought by a student within 30 days; if the institution's owner, director, or officer was found guilty in any criminal, civil, or administrative proceeding regarding student aid; or if such institution or its owner, director, or officer had unpaid financial liabilities involving improper acquisition, expenditure, or refund of state or federal financial aid funds. The Secretary was required to apply an agency's action nationwide unless he found, within 30 days of notification of an agency action, that such action did not comply with the requirements set forth in the law.

♦ **Standardization and simplification requirements.** The Secretary, in consultation with all program participants, was required to develop standardized forms and procedures regarding origination, guaranty, deferments, forbearance, servicing, electronic funds transfers, borrower status changes, claims filing, and cures. Simplification requirements included standardization of formats, forms, and procedures for origination, servicing, and collection of loans; and, alternate means of implementation of electronic data exchanges. Such forms and procedures must include all aspects of the loan process and shall be designed to minimize administrative costs and burdens involved in data exchanges to and from borrowers, schools, lenders, secondary markets, and the Department. The Secretary, at least annually, was to seek recommendations from program participants for additional methods of simplifying and standardizing the administration of Part B programs. The law had no limitation on the development of electronic forms and procedures.

♦ **Definition of "new borrower."** The term "new borrowers" was defined as any date an individual who on that date had no outstanding balance of principal or interest owed on any loan made, insured, or guaranteed under Part B.

PART C - FEDERAL WORK-STUDY PROGRAM (FWS)

The Federal Work-Study (FWS) Program is a need-based program designed to give undergraduate and graduate students the chance to work part-time to help meet the costs of their postsecondary education. Federal funds can finance up to 75 percent of the costs of part-time employment. These funds must be paid directly to the student at least once per month by check or similar method. The institutional share of the award can be paid directly to the student in the form of tuition, room and board and books as well as by check or similar method. FWS awards must be renewed by students annually as part of a total financial aid package. Students participating in the program must receive at least minimum wage for part-time employment and may be employed in any of the following ways:

♦ Employment On-Campus.
♦ Employment Off-Campus.
♦ Private Sector Employment.

Funds are allocated to institutions by formula. The authorized level for FY-93 was $800 million, and "such sums as may be necessary" for each of the four succeeding years. FY-96 appropriation was $616.5 million.

P.L. 102-325 made the following significant changes in the FWS Program:

♦ **Name.** The program was renamed *Federal Work-Study Program.*

♦ **Definition of community service.** Community services were defined as those services designed to improve the quality of life for community residents, particularly low-income individuals, or solving problems related to their needs including: (1) such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, and others; (2) work in service opportunities or youth corps as defined in the National and Community Service Act of 1990; (3) support services for students with disabilities; and, (4) activities in which a student serves as a mentor for such purposes as tutoring, supporting educational and recreational activities, and counseling, including career counseling.

♦ **Excess appropriations.** P.L. 102-325 mandated that in any fiscal year in which the FWS appropriation exceeded $700 million, not more than ten percent of the amount in excess of $700 million may be allocated by the Secretary to institutions at which 50 percent or more of their Federal Pell Grant recipients graduate or transfer to a four-year institution, provided these students do so within a reasonable time frame.

♦ **Reallocation.** The reauthorization bill provided that all excess FWS program allocations

returned by schools to the Secretary shall be reallocated to institutions who used at least ten percent of their FWS funds for community service; these redistributed funds were to be used for direct compensation of students employed in community service.

♦ **Use of funds for community service learning.** The 1992 Amendments required schools to use at least 5% of their work-study funds for community service work-study programs, unless the Secretary granted a waiver of this provision.

♦ **Use of funds for nontraditional students.** If an institution's FWS allocation was directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full-time or are independent students, and, if the total financial need of all such students at the institution exceeded five percent of the total financial need of all students, then at least five percent of the allocation must be made available to such less than full-time and independent students.

♦ **Overaward income limit.** The 1992 Amendments required that when a student employed in a work-study program under Part C has income from need-based employment exceeding the student's determined need by more than $300, continued employment may not be subsidized by FWS funds.

♦ **Institutional match.** The institutional matching requirement decreased to 25 percent effective for the 1993-94 academic year. The Secretary's waiver authority to reduce that percentage was maintained.

♦ **Proprietary school requirements.** Proprietary institutions were required to establish the same community service work-study programs as non-profit institutions, and were permitted to employ students in jobs furnishing student services that were directly related to the student's education, according to regulations by the Secretary.

♦ **Program agreement changes.** The operation of community service work programs was added to the work-study program agreement between institutions and the Secretary by P.L. 102-325. Further, the institution must provide assurances that informs all eligible students of the opportunity to perform community service, and consults with local non-profit, governmental and community-based organization to identify such opportunities. Institutions were required to provide assurances that employment made available by work-study funds may be used to support programs for supportive services to students with disabilities.

♦ **Carry-back authority.** In addition to permitting institutions to carry back up to 10 percent of funds appropriated, institutions were also permitted to fund students with summer employment from the succeeding fiscal year's appropriation.

♦ **Use of funds for Job Location and Development (JLD).** The 1992 Amendments stated an institution may use not more than 10 percent or $50,000 (whichever is less) of its work-study funds for Job Location and Development programs for currently enrolled students.

♦ **Work colleges.** P.L. 102-325 authorized $5 million in FY-93, and such sums as may be necessary for each of the four succeeding fiscal years, for a new program within the FWS Program to recognize, encourage, and promote the use of comprehensive work-learning programs. In addition to the funds for the new authorization, FWS and Federal Perkins Loan funds allocated to the institution may be transferred for use for this program to provide flexibility in strengthening the self-help-through-work element in financial aid packaging. To be eligible, institutions must (1) apply to the Secretary to be designated a Work College; (2) was a non-profit postsecondary institution with a commitment to community service; (3) operated a comprehensive work-learning program for at least 2 years; (4) required all resident students who reside on campus to participate in a comprehensive work-learning program; and, (5) provided participating students with the opportunity to contribute to their education and to the welfare of the community. Appropriated funds must be matched equally from non-Federal sources. Funds may be used for (1) providing assistance to pay the educational expenses of qualified students through self-help payments or credits provided under the work-learning program; (2) promotion of a comprehensive work-learning program as a tool of postsecondary education, financial self-help, and community service learning opportunities; (3) the administration, development, and assessment of comprehensive work-learning programs; and, (4) other activities authorized for the FWS Program.

PART D - WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

The Higher Education Amendments of 1992 authorized a direct lending demonstration program. The Student Loan Reform Act of 1993 (P.L.103-66) changed that to a full program with a five-year phase-in of direct loans. With the exception of certain repayment options, the terms and conditions of loans made under the William D. Ford Federal Direct Loan Program are identical to those in the Part B Program.

FY-96 appropriations allowed an estimated $10.391 billion in new loan volume for that fiscal year.

Highlights of PL. 103-66, The Student Reform Act of 1993 are as follows:

♦ **Name.** PL. 103-382 changed program name to William D. Ford Federal Direct Loan Program.

♦ **Administrative Fee.** Schools were to be paid an administrative fee per loan not to exceed a program-wide average of $10. The Omnibus Appropriations Act of 1996 suspended that fee for that fiscal year.

♦ **Selection of Institutions.** General requirements mandated schools selected should be a diverse sample according to such institutions anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience. Any school desiring to participate for academic year 1994-95 in the program was to apply and meet certain specified criteria including: (1) made loans under part E of this title in academic year 1993-1994 and did not exceed the applicable

maximum default rate under section 462(g) for the most recent fiscal year for which data are available; (2) was not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E of this title; (3) was not overdue on program or financial reports or audits required under this title; (4) was not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c); (5) in the opinion of the Secretary, had not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of this title; (6) in the opinion of the Secretary, had not had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application; (7) provided an assurance that such institution had no delinquent outstanding debts to the Federal Government, unless such debts were being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determined that the existence or amount of such debts had not been finally determined by the cognizant Federal agency; and (8) met such other criteria as the Secretary established to protect the financial interest of the United States and promote the purposes of this part. For subsequent years the Secretary was required to publish regulations governing the approval of institutions to originate loans. Institutions may participate and use an alternative originator.

♦ **Transition Provisions.** The legislation laid out the following goals for the Secretary to meet: (1) for academic year 1994-1995, loans made under this part shall represent 5 percent of the new student loan volume for such year; (2) for academic year 1995-1996, loans made under this part shall represent 40 percent of the new student loan volume for such year; (3) for academic years 1996-1997 and 1997-1998, loans made under this part shall represent 50 percent of the new student loan volume for such years; and (4) for the academic year that begins in fiscal year 1998, loans made under this part shall represent 60 percent of the new student loan volume for such year. The Secretary could exceed the percentage goals described above if the Secretary determined that a higher percentage was warranted by the number of institutions of higher education that desired to participate in the program and that met the eligibility requirements for participation.

♦ **Participation Agreements.** Participating institutions were to enter into an agreement with the Secretary meeting certain requirements, such as, identifying eligible students, certifying the borrower's loan, disbursing the loans, providing specified information, accepting financial liability, and not charging fees for loans, among other participation requirements.

♦ **Terms and Conditions.** Terms and conditions for a borrower were to basically parallel those in the Part B loan program.

♦ **Income Contingent Repayment.** One term and condition basically different from Part B Loans was the Federal Direct Loan Program allowed borrowers to repay their debts not to exceed 25 years contingent on their income.

PART E - FEDERAL PERKINS LOAN PROGRAM

The National Defense Student Loan Program was authorized under the National Defense Education Act of 1958. The Higher Education Amendments of 1986 changed the name of the program to the Perkins Loan Program, in honor of Rep. Carl D. Perkins. The purpose of the program is to stimulate and assist in the establishment and maintenance of funds at institutions of higher education for the purpose of making low-interest loans to students with exceptional need to enable them to pursue their courses of study. FY-96 appropriations for Federal Perkins Loan Program Federal Capital Contribution (FCC) was $93.297 million reduced from the prior fiscal year's FCC of $158 million.

The major P.L.103-325 changes in the Federal Perkins Loan Program are the following:

♦ **Name.** The program was renamed *Federal Perkins Loan Program.*

♦ **Purpose.** A specific reference was added noting that Federal Perkins loans may be used for students in study abroad programs approved for credit by the institution.

♦ **Allocation.** P.L. 102-325 changed the basis upon which an institution's allocation was made from Federal capital contribution (FCC) "received" in FY-85 to FCC "allocated to such institution" in FY-85.

♦ **Appeals procedure for collections.** The reauthorized HEA established an appeals process by which the Secretary can waive the requirement for annually increased collections for low-default institutions.

♦ **Default rate penalty.** The current system of default rate penalties for the Federal Perkins Loan Program was changed by P.L. 102-325 by providing that in FY-94, institutions with cohort default rates greater than or equal to 30 percent will receive no new Federal Perkins Loan funding; institutions with default rates greater than or equal to 25 percent will have their funding reduced by 30 percent; institutions with default rates greater than or equal to 20 percent will have their funding reduced by 10 percent; and, institutions with default rates greater than or equal to 15 percent must establish a default reduction plan. A default reduction plan implemented under the requirements of the Stafford Loan Program and under the Federal Perkins Loan Program should be coordinated.

♦ **Default rate threshold and definition.** The applicable maximum default rate for award years 1992 and 1993 remained at 15 percent; for award year 1994 and subsequent years, the maximum cohort default rate was set at 30 percent.

The definition of default rate was changed as follows:

(1) For any award year prior to award year 1994 the calculation remains as in current law, except a loan will be considered in default 240 days (in the case of a loan repayable monthly) and 270

days (in the case of a loan repayable quarterly) after the borrower failed to make an installment payment when due or to comply with other terms of the promissory note. This was a change from 120 days for monthly repayments and 180 days for quarterly repayments.

(2) For award year 1994 and any succeeding year, a cohort default rate will be used, paralleling the Stafford Loan default rate calculation. The definition provided that if a borrower had made an arrangement to resume repayment, such a loan was not counted toward the institutional default rate, and in the case of a student who had attended and borrowed at more than one school, the student and his or her subsequent repayment or default, was attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

♦ **Reallocation.** P.L. 102-325 provided that 80 percent of Federal Perkins Loan Program funds returned by institutions be allocated to schools which participated in the Federal Perkins Loan Program in FY-85 but did not receive an allocation in the fiscal year for which the reallocation determination was made.

♦ **Return of allocated funds.** Institutions that failed to award at least 90 percent of their Federal Perkins Loan funds would have their subsequent year's allocation reduced by the amount returned, unless the Secretary found that enforcing this provision for a specific institution was contrary to the interests of the program.

♦ **Institutional match.** Under P.L. 102-325 the institutional match increased to 15 percent in FY-93 and to 25 percent in subsequent years.

♦ **Credit bureau requirements.** Institutions were required to disclose to credit bureau organizations with which the Secretary has an agreement, the amount of loans made to the borrower and other information specified under the credit bureau reporting requirements for Part B loans.

♦ **Disclosure requirement.** The Federal Perkins Loan disclosure statement to borrowers was modified so that borrowers understand that the disbursement and default on a Federal Perkins Loan will be reported to credit bureaus.

♦ **Use of interest bearing accounts.** Short-term holders of collected Federal Perkins Loan funds (collection agents, attorneys, and loan servicers) were not required to place collected funds in interest bearing accounts, unless such entities hold collections for more than 45 days.

♦ **IRS skip tracing.** The Secretary was required by P.L. 102-325 to make every effort to ensure that postsecondary institutions may use IRS skip-tracing collection procedures for Federal Perkins Loans.

♦ **Annual limits.** Annual loan limits were established at $3,000 for undergraduate students and $5,000 for graduate students. Annual Federal Perkins Loan limits may be increased by 20 percent for study-abroad students.

♦ **Aggregate limits.** Under P.L. 102-325 aggregate borrowing limits were set at $15,000 for undergraduate students and $30,000 for graduate and professional students. Aggregate Federal Perkins Loan limits may be increased by 20 percent for study-abroad students.

♦ **Expanded Lending Option.** An Expanded Lending Option program was created providing that institutions with default rates of 7.5 percent or less may increase their campus match to at least 50 percent, and may offer annual limits of $4,000 for undergraduates and $6,000 for graduate students. Aggregate loan limits were set at: $8,000 for students in their first two years of undergraduate education; $20,000 for total undergraduate education; and $40,000 for graduate and professional students.

♦ **Use of funds for nontraditional students.** If an institution's Federal Perkins Loan Federal Capital Contribution was directly or indirectly based in part on the financial need demonstrated by students who are attending the institution less-than-full-time or are independent students and, if the total financial need of all such students at the institution exceeded five percent of the total financial need of all students, then at least five percent of such loans must be made available to such less-than-full-time and independent students.

♦ **Minimum repayment.** The monthly minimum repayment was increased from $30 to $40 by P.L. 102-325.

♦ **Deferments.** P.L. 102-325 provided deferments of Federal Perkins Loan payments: (1) for any borrower in-school at least half-time; for any borrower pursuing a course of study pursuant to a graduate fellowship program or pursuant to a rehabilitation training program for disabled individuals (programs must be approved by the Secretary)--except that no borrower was eligible for a deferment under this clause while serving in a medical internship or residency program; (2) for up to three years during which the borrower was seeking and unable to find full-time employment; (3) for up to three years for economic hardship, defined pursuant to regulations by the Secretary; or, (4) during any period in which the borrower was engaged in certain community service activities. In addition, deferments will be approved for students engaged in graduate or post-graduate fellowship-supported study outside the U.S. until the completion of the period of the fellowship.

♦ **Forbearance.** Institutions were required to grant a borrower forbearance of principal and interest or principal only, upon written request, if the borrower's debt burden equaled or exceeded 20 percent of such borrower's adjusted gross income; or, if the institution determines that the borrower should qualify for forbearance for other reasons. Such forbearance was made renewable at 12-month intervals for a period not to exceed 3 years.

♦ **Special repayment authority.** Under terms of the 1992 reauthorization bill institutions were permitted to compromise on repayment of defaulted Federal Perkins Loans, subject to restrictions as the Secretary may prescribe to protect the government's interests, if the student borrower paid in a lump sum payment: (1) 90 percent of the loan; 2) the interest due on the loan; and, 3) any collection fees on the loan. The Federal share and institution's share of the

compromise repayment was set as the ratio of the FCC to the institution's capital contribution.

♦ **Cancellation provisions.** P.L. 102-325 removed the 50 percent limitation of all Title I schools in a State for purposes of determining eligibility for Federal Perkins Loans cancellation. Eligibility for loan cancellation also was provided to: (1) full-time special education teachers, including teachers of infants, toddlers, children, or youth with disabilities in a public or other non-profit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other non-profit program under public supervision by the lead agency as authorized in section 676(b)(9) of the Individuals With Disabilities Education Act; (2) full-time teachers of mathematics, science, foreign languages, bilingual education, and other shortage fields determined by the state's education agency (3) full-time nurses and medical technicians providing health care services; and, (4) full-time employees of public or private non-profit child or family service agencies who were providing, or supervising the provision of, services to high-risk children from low-income communities and the families of such children.

♦ **Duration of eligibility for cancellation.** The Secretary was permitted to use the previous year's list of Title 1 schools eligible for Federal Perkins Loan cancellation if the new list was not available by May 1. A borrower receiving Federal Perkins Loan cancellation for teaching in Title 1 schools may continue to receive such cancellation for subsequent years provided the borrower continues to teach in the school, even if the school lost its designation.

♦ **Excess cash determination.** P.L. 102-325 added a requirement to the current excess capital distribution rules providing that no finding may be made that the liquid assets of a student loan fund exceeded the required amount can be made prior to two years after the date the institution received a Federal Perkins Loan allocation.

♦ **Creation of Federal Perkins Loan Revolving Fund.** A Federal Perkins Loan Revolving Fund was created to ensure that collections on defaulted loans and other unused loan funds (such as funds on loans referred, transferred or assigned to the Secretary; collections on loans referred; funds from schools that closed; funds resulting from an audit finding; etc.). These funds will reallocated to institutions rather than placed in the U.S. Treasury as was true under prior law.

PART F--NEED ANALYSIS

NASFAA Reauthorization Task Force does not have responsibility for making recommendations for changes in Part F. That portion of the law is the responsibility of NASFAA's Need Analysis Standards Committee.

PART G--GENERAL PROVISIONS

This part of the HEA specifies those statutory requirements that Title IV participants must follow in order to become or continue their eligibility for such programs.

♦ **Delivery System Modifications**

P.L. 102-325 made changes in the delivery system as follows:

1. Effective date. The 1993-94 award year was set as the beginning date of the delivery system changes required by the 1992 reauthorization.

2. Single form required. In cooperation with representatives of agencies and organizations involved in student financial assistance, the Secretary must produce, distribute, and process a common financial reporting form to be used to determine the need and eligibility of a student for Title IV financial assistance (other than SSIG) and determine the need of a student for Part B loans. For the purpose of collecting eligibility and other data for the purpose of part B loans, the Secretary was required to develop a separate identifiable loan application document that applicants or institutions in which the students were enrolled, or accepted for enrollment, must submit directly to eligible lenders on which the applicant clearly indicates a choice of lender.

3. Free form. Under the provisions of P.L. 102-325 no student or parent can be charged a fee for the collection, processing, or delivery of federal financial aid through use of this form. The need and eligibility of a student for such financial aid and the need of a student for a Part B loan may only be determined by using the form developed by the Secretary nor may a student receive such assistance or have the student's need established for Part B except by use of the form developed by the Secretary.

4. Eight non-financial data elements for states. The Secretary may include on the common form not more than eight non-financial data elements. These non-financial data elements were selected by the Secretary, in consultation with the states, to assist the states in awarding state student aid.

5. Institution access to data without charge. Postsecondary institutions and states shall receive, without charge the data collected by the Secretary using the common form, for the purposes of determining need and eligibility for institutional and state financial aid awards.

6. Contracts for collection and processing. P.L. 102-325 provided to the extent practicable, the Secretary was to enter into not less than five contracts with states, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the common form and the timely delivery of the data submitted. The Secretary was required to use such contracts to assist states and postsecondary institutions with the collection of additional data required to award state or institutional financial assistance, except the Secretary was prohibited from including these additional data items on the common financial reporting form. To the extent practicable, the Secretary was to ensure that at least one contractor, or portion of one contract, will serve graduate and professional students.

7. Charges for additional data items. The reauthorization legislation mandated that any charges by the contractor to students or parents for additional data items required by a state or

postsecondary institution for any purpose, regardless of the method of collection, must be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary. Further, the contractor must require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted by law for any such additional data.

8. Further contractor requirements. (1) As part of the procurement process for the 1993-94 award year, and for all procurements thereafter pertaining to the contracts, the Secretary was required by P.L. 102-325 to ensure all entities competing for such contracts comply with all requirements and use the common financial reporting form which was to be clearly identified as the "Free Application for Federal Student Aid," and, (2) use a common, simplified reapplication form prescribed by the Secretary in each award year. (3) All approved contractors were to be reimbursed by the Secretary at a reasonable predetermined rate for processing applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary. (4) All contractors were required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency. (5) Contractors were barred from entering into exclusive arrangements with guarantors, lenders, secondary markets, or postsecondary institutions for the purpose of reselling or sharing of data collected for the multiple data entry process. Under P.L. 102-325, all data collected under a contract was considered the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's written approval.

9. Streamlined reapplication process. (1) Within 240 days of enactment of the reauthorization bill, the Secretary was required to develop a streamlined reapplication form and process, including electronic reapplication for those recipients who reapply for Title IV financial aid. (2) The Secretary was required to develop appropriate mechanisms to support reapplication. (3) In cooperation with states, postsecondary institutions, agencies, and organizations involved in student financial assistance, the Secretary shall determine the data elements that can be updated from the previous academic year's application. (4) Nothing in Title IV can be interpreted as limiting the Secretary's authority to reduce the number of data elements required of reapplicants. (5) Individuals determined to have a zero family contribution according to the Simplified Needs Test were not required to provide any financial data, except that which was necessary to determine eligibility under that section.

10. Preparers of applications. P.L. 102-325 mandated any required financial aid application include the name, signature, address, social security number, and organizational affiliation of the preparer of such financial aid application.

♦ Program participation agreements were modified in the following ways:

1. Provision of administrative capability and financial responsibility information. Program participation agreements required institutions to establish and maintain such administrative and

fiscal procedures, and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under Title IV. The 1992 Amendments contained an additional requirement mandating institutions, upon request and in a timely fashion, provide to the Secretary, state review agency designated under Part H, guaranty agency, or accrediting agency such information relating to the administrative capability and financial responsibility of the institution.

2. Job licensing disclosure. P.L. 102-325 amended program participation agreements requiring institutions that advertise job placement rates inform all students by the time of application of the relevant job licensing requirements.

3. Study abroad. Program participation agreements mandated by P.L. 102-325 that Title IV eligible students will not be denied any form of federal financial aid on the grounds that a student is participating in a program abroad approved for credit by the institution.

4. Default management plan. Program participation agreements required, under terms of the renewed HEA, that new institutions, including branches, and changes of ownership to automatically enter a two-year Default Management Plan.

5. Sharing information. The final bill mandated program participation agreements required any information on Title IV institutional eligibility or information on fraud and abuse be shared among the Secretary, lenders, guaranty agency, accrediting agencies, state review agencies designated under Part H, and the Veterans Administration.

6. Employment of individuals and use of entities with Title IV violations. Program participation agreements were modified to prohibit institutions from knowingly employing anyone previously convicted of fraud in connection with Title IV funds. This prohibition also was applied to any organization the institution utilized or contracted with. Institutions were to make a good faith effort to obtain this information and implement this standard.

7. Participation in data collection. Program participation agreements were changed requiring institutions to complete surveys conducted as part of any federal data collection effort.

8. Athletic information. As part of the program participation agreement, the 1992 HEA modifications required institutions that offered athletically-related student aid report information on revenues and costs.

9. Prohibition on late fees for delayed disbursement of loans. Under the provisions of the 1992 Amendments, program participation agreements prohibited institutions from imposing a late fee, dropping from enrollment, or otherwise penalizing any student solely because an installment of the student's loan proceeds was delayed because of the statutory late disbursement requirements.

10. Commissioned sales and incentive payments. As part of a program participation

agreement, the 1992 Amendments stated institutions were prohibited from providing any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance. The use of commissioned sales for recruiting foreign students who are ineligible for Title IV assistance was permitted.

11. Cooperation with review entities. P.L. 102-325 mandated institutions, as part of its participation agreement, meet the requirements established by the Secretary, state postsecondary review entity, and accrediting agencies regarding the program integrity section of the law, Part H.

12. Refunds The 1992 law required schools comply with the HEA's refund policy as certified in the institution's program participation agreement.

♦ **Ability-to-benefit changes.** P.L. 102-325 provided that for an individual to qualify for Title IV assistance who does not have a high school diploma, or the recognized equivalent of such certificate, the student met either of the following standards: (1) Take an independently administered examination and achieve a score, specified by the Secretary, demonstrating an ability to benefit from the program. Examinations were approved by the Secretary on the basis of compliance with standards for development, administration, and scoring prescribed in regulations, or, (2) A student will be judged as having the ability to benefit in accordance with a process that a state shall prescribe. Unless the Secretary disapproved such a plan, approved or described by a state within six months of submission to the Department, it would automatically take effect. The Secretary's decision needed to take into account the effectiveness of the process in enabling students without high school diplomas, or their equivalent, to benefit from the instruction utilizing the process and, also, take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

♦ **Correction of inadvertent loan limit violation.** A student inadvertently may borrow Part B, D, or E loan amounts violating either annual or aggregate loan limits and lose Title IV eligibility. The law was changed so that such a student, as long as he or she did not fraudulently borrow loan amounts in violation of the law, can regain Title IV eligibility by repaying the amount in excess of the limits.

♦ **Aid eligibility extension for teachers.** P.L. 102-325 extended student eligibility for Part B, Part D, and Federal Perkins Loans, and FWS to individuals, attending at least half-time, pursuing a professional credential or certification from a state that was required for employment as a teacher in an elementary or secondary school in that state. This eligibility was backdated to December 1, 1987.

♦ **Aid eligibility extension for those already possessing a degree.** The 1992 Amendments allowed student eligibility for Part B, Part D, and Federal Perkins Loans, and FWS for students who possessed a baccalaureate or professional degree.

♦ **Correspondence program restrictions.** P.L. 102-325 prohibited students from receiving Title IV assistance for any correspondence course unless such course was part of a program leading to an associate, bachelor or graduate degree. It eliminated from Title IV eligibility any institution that offers more than 50 percent of its courses by correspondence, unless the institution met the definition in section 541(4)(C) of the Carl D. Perkins Vocational and Applied Technology Act, or enrolled 50 percent or more of its students in correspondence courses.

♦ **Ability-to-benefit restriction.** Any institution with more than 50 percent of its enrollment consisting of ability-to-benefit students and did not provide a four- or two-year program of instruction, or both, for which it awards a bachelor's or associate's degree was made ineligible for Title IV assistance by P.L. 102-325.

♦ **Eligible program definition and short-term program loan requirements.** P.L. 102-325 mandated elimination of courses of study of less than 600 hours from Title IV eligibility, unless the institution proved a verified graduation rate and job placement rate of 70 percent (according to regulations issued by the Secretary). This new definition would not apply if such short-term programs required at least an associate's degree for admission. For Title IV purposes the term "eligible program" meant a program of at least (1) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks in the case of a program that (a) provided a program of training to prepare students for gainful employment in a recognized profession and, (b) admitted students who have not completed the equivalent of an associate degree; or (2) 300 clock hours of instruction, 8 semester hours, or 12 quarter hours, offered during a minimum of 10 weeks, in the case of (a) an undergraduate program that required the equivalent of an associate degree for admissions or (b) a graduate or professional program. Further, the Secretary was required to develop regulations determining the quality of programs of less than 600 hours in length. Such regulations required, at a minimum, that programs had verified rates of completion and placement of at least 70 percent. Notwithstanding the definition of "eligible program" described above, and pursuant to the Secretary's regulations, the Secretary was to allow programs of less than 600 clock hours, but greater than 300 clock hours eligibility to participate in Part B loan programs.

♦ **Title IV income rule for proprietary schools.** P.L. 102-325 eliminated from eligibility any proprietary school that derived more than 85 percent of its revenues from Title IV funds. Such determinations were to be made in accordance with regulations prescribed by the Secretary.

♦ **Substantial control violations.** P.L. 102-325 permited the Secretary to extend actions against any entity or individual that has substantial control if the entity or individual violated any aspect of the student aid programs. The Secretary may use such a violation as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

♦ **Automatic ineligibility for bankruptcy or fraud.** Any institution was made automatically ineligible for Title IV funds that files for bankruptcy or if its owner, or its chief executive officer was convicted of, pled nolo contendere or guilty, to a crime involving the acquisition, use, or

expenditure of Title IV funds or had been judicially determined as committing fraud.

♦ **Telecommunications requirements.** P.L. 102-325 stipulated telecommunications courses were not to be considered correspondence courses provided only if the total amount of telecommunications and correspondence courses at the institution (with an exemption for area vocational schools meeting the definition in section 541(4)(C) of Carl D. Perkins Vocational and Applied Technology Education Act) was less than 50 percent of all courses offered and the course of instruction led to a recognized associate, bachelor or graduate degree. A student's Title IV eligibility shall be reduced because of enrollment in telecommunications courses if the financial aid administrator, using professional judgment, determined that such courses led to a substantially reduced cost of attendance. P.L. 102-325 defined telecommunications devices or mediums. Finally, the new law required the Secretary to take no action against a student or institution for the prior award of student aid if the institution demonstrated to the Secretary that its course of instruction was in conformance with the specifications of these provisions.

♦ **Loans for study at foreign institutions.** The 1992 Amendments allowed eligible students attending foreign institutions to participate in the Part B programs as in prior law. Foreign medical school eligibility had the added requirements to prior law that students from foreign medical schools had a 60 percent pass rate on the examination offered by the Educational Commission for Medical Graduates, that at least 60 percent of the school's graduates were non-U.S. citizens, or the institution's clinical training program was approved by a state as of January 1, 1992.

♦ **Refunds.** Under P.L. 102-325 institutions were required to have a fair and equitable refund policy for Title IV programs refunding students, or parents for a PLUS loan, unearned tuition, fees, room and board, and other charges for periods of time if a student did not register, withdraws, or otherwise failed to complete the period of enrollment. These provisions for refunds were required only for students attending the institution for the first time. To be considered fair and equitable, the policy needed to provide for a refund in an amount of at least the largest of (1) the requirements of an applicable state law; (2) the specific refund requirements established, and approved by the Secretary, by the school's nationally recognized accrediting agency; or, (3) the pro rata refund calculation required by law (described below), except that this provision did not apply to the institution's refund policy for any student whose withdrawal date was after the 60 percent enrollment period in time for which the student had been charged.

Pro rata refund was defined, by P.L. 102-325, as a refund to a student of not less than that portion of the tuition, fees, room and board, and other charges assessed the student equal to the portion of the enrollment period for which the student had been charged that remained on the last day of attendance rounded downward to the nearest ten percent of that period, minus any unpaid student charges, and minus a reasonable administrative fee. A reasonable administrative fee was defined as the lesser of five percent of tuition, fees, room and board and other charges or $100.

Refunds were required to be credited to the following programs in this order: outstanding balances on Part B, D, and E loans, awards for Federal Pell Grant, FSEOG, and the FWS

programs, to other Title IV student assistance programs, and, finally, to the student.

♦ **Secretary's authority to verify applications.** P.L. 102-325 clarified the Secretary may verify all aid applications through the use of any means available, including utilization of information exchanges with other federal agencies.

♦ **Selective Service.** In the enforcement of the Selective Service registration requirements, the 1992 Amendments required the Secretary to conduct database matches with the Selective Service system. Appropriate confirmation, through an application output document or through other means, of any person's registration will fulfill the requirement to file a separate statement of compliance. In the absence of a data match confirmation, a school also may use data or documents that determined the student's registration status to fulfill the separate statement of compliance requirement. The Secretary was to prescribe regulations for the reporting mechanism for the resolution of non-confirmed matches.

♦ **Social security number verification requirements.** In cooperation with the Commissioner of the Social Security Administration, the Secretary was required to verify any student's social security number. Under P.L. 102-325, the Secretary shall enforce the following conditions: If the Secretary determined that a social security number was incorrect, then the school shall deny or terminate Title IV assistance until the student provided the correct number. If the student cannot provide the correct number and a student's Part B loan had been guaranteed, then the school notifies and instructs the lender and guaranty agency to cease further loan disbursements, but the guaranty was not voided for disbursements made before the notification date. The Secretary was not permitted to take any compliance, disallowance, penalty, or other regulatory action against (1) any institution with respect to any social security number error, unless the error was a result of fraud on the part of the institution; or, (2) against any student with respect to any social security number error, unless the error was a result of fraud on the part of the student. Except for the above conditions an institution was not permitted to deny, reduce, delay or terminate a student's Title IV eligibility because social security number verification was pending.

♦ **Social security number.** P.L. 102-325 mandated an eligible student obtain a Social Security number.

♦ **Immigration status verification and applicants for asylum.** The Secretary was required to establish an immigration status verification system to serve in lieu of the prior law's requirements for documentation under the Immigration and Nationality Act. The current Section 484(h)(4) appeals process was retained. Further, Conference Report language directed the Secretary to study the issue, determine the number of students, and work with the appropriate federal agencies to develop a policy by December 31, 1992 dealing with Title IV student eligibility for groups of individuals in this country whose immigration status fell into the category of applicant for asylum.

♦ **National Student Loan Data System.** P.L. 102-325 made a number of alterations to the National Student Loan Data System to ensure information compatibility, electronic data

exchange, uniform data reporting formats, and integration of all student aid data bases by January 1, 1994. Also, the first priority for implementation in the National Student Loan Data System was to provide for monitoring enrollment, student status, internship and residency information, identification of current loan holders, and providing borrower access to status and holder information.

♦ **Annual audits.** Under provisions of the 1992 Amendments all program participants were required to conduct annual compliance and financial audits. Institutional audit information was to be made available by the Secretary to guaranty agencies, lenders, state agencies, accrediting agencies, and, also, federal agencies with student aid responsibilities.

♦ **Refund after audit.** If an audit showed that the institution was owed money by the Department, the Department must refund that money and the provision was applied to any audit conducted after December 31, 1988 as required by the appropriate subsection of the HEA.

♦ **Regulations required.** P.L. 102-325 required the Secretary to prescribe regulations in the area of audits, the financial stability of schools, and the enforcement of standards.

♦ **Exit Counseling.** The 1992 revised HEA retained prior law exit counseling requirements, with the exception of providing general information on student indebtedness. Additional exit counseling information mandated included expansion of the information students currently receive on Peace Corps and community service deferments and cancellations to include information on all deferments and cancellations. During the exit interview the institution was to acquire from the borrower his or her expected permanent address after leaving the institution, name and address of the borrower's expected employer, the address of the borrower's next of kin, and any corrections in the institution's records relating to the borrower's name, address, Social Security number, references, and driver's license number. This information was to be shared with lenders by the guaranty agencies.

♦ **Information line and services to students with disabilities.** The toll-free student financial aid information line was to include TDD services to provide access for the deaf and to refer students with disabilities and their families to the national clearinghouse on postsecondary education authorized under Section 633(c) of the Individuals with Disabilities Act.

♦ **Campus crime.** Section 485(f) of the HEA (Disclosure of Campus Security Policy and Campus Crime Statistics) was modified by P.L. 102-325 making institutions responsible for developing policies, procedures dealing with, and educational awareness concerning sexual offenses. The renewed law amended the collection period dates for crime statistics to be reported each year and phased in new dates. It created a $10 million authorization for a grant program for sexual offenses education and prevention programs as part of Title XII.

♦ **Academic year definition.** The definition of academic year was modified requiring a minimum of 30 weeks of instructional time in which a full-time student was expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which

measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.

♦ **Master calendar.** P.L. 102-325 tightened the provisions of the Master Calendar so that any Title IV regulatory changes initiated by the Secretary not published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date.

♦ **Single lender, Single loan requirements.** To the extent practicable, borrowers would be kept with a single lender, holder, guaranty agency, and servicer and, to the extent practicable, all loans by a single borrower be treated as one for purposes of repayment and deferment under provisions of P.L. 102-325.

♦ **Single identification number.** The 1992 law stated each institution, lender, and guaranty agency was required to be assigned a single identification number for use in all Title IV programs.

♦ **On the record hearings.** The 1992 Amendments provided that hearings before the Department no longer may be "on the record." However, institutions may record such hearings, but the availability or lack of availability of any such record could not delay any proceeding, hearing, or implementation of an action.

♦ **Criminal penalties.** Criminal penalties for fraud and abuse were increased by P.L. 102-325. Failure to pay refunds was specifically added to the list of criminal acts and the law emphasized that failure to pay refunds did constitute criminal misapplication under law.

♦ **Inter-program transfers.** The inter-program transfer provision was modified by P.L. 102-325 so that institutions may transfer up to 25 percent of their allotments in Federal Perkins Loans to FSEOG or FWS, or both programs, and transfer up to 25 percent from FWS to FSEOG.

♦ **Use of administrative expense funds.** Institutions were required to use a reasonable proportion of their federally-provided administrative funds to provide financial aid services to part-time and independent students during times and in places that will most effectively accommodate the needs of such students.

PART H--PROGRAM INTEGRITY

This Part of the HEA sets forth certain gatekeeping activities and also provides for monitoring of postsecondary institutions by named entities.

Subpart 1--State Postsecondary Review Program (SPRE)

P.L. 102-325 established a system of state monitoring (SPRE) of postsecondary institutions with detailed review criteria and requirements. After the 1992 Reauthorization legislation became

law, postsecondary institutions protested the establishment of the SPREs and the Republican 104th Congress moved, first, to eliminate funding for SPREs and, then, to strike SPREs from the Act. Parallel to congressional action, the Clinton Administration suspended enforcement of this provision. Some type of state monitoring system may resurface in the next reauthorization since a number of Members of Congress and Clinton Administration officials continue to express their support for some state review of postsecondary institutions

Subpart 2--Accrediting Agency Approval

♦ **Accreditation.** P.L. 102-325 made a number of changes to the federal accrediting approval process and accreditation agency requirements. It provided for a systematic review and approval by the Secretary of accrediting bodies, but limited the Secretary to approving only accrediting bodies that accredit institutions for purposes of Title IV eligibility or that accredit institutions or programs for other federal purposes.

Subpart 3--Eligibility and Certification Procedures

♦ **General.** Under provisions of P.L. 102-325 for purposes of qualifying postsecondary institutions for Title IV participation, the Secretary shall determine the legal authority to operate in a state, the accreditation status, and the administrative capability and financial responsibility of the institution in accordance with the requirements that follow.

♦ **Single application form.** The Secretary was required to prepare and prescribe a single application form which (1) required sufficient information and documentation to determine that the requirements of eligibility, accreditation, and capability of the institution were met; (2) required a specific description of the relationship between a main campus and all of its branches, including a description of the student aid processing that was performed by the main campus and the branches; (3) required a description of third-party servicers for the school, together with a copy of any contract with the school and a financial aid service provider or loan servicer; and, (4) required any other information the Secretary determined ensures compliance with Title IV requirements with respect to eligibility, accreditation, administrative capability, and financial responsibility.

♦**Financial responsibility standards.** P.L. 102-325 mandated the Secretary determine whether an institution met financial responsibility standards required by this title on the basis of whether the institution (1) provided the services described in its official publications and statements; (2) provided the administrative resources necessary to comply with Title IV requirements; and (3) met all of its financial obligations, including, but not limited to, refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

Notwithstanding the above paragraph, if an institution failed to meet criteria prescribed by the Secretary with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits, then the institution must provide the Secretary with satisfactory evidence of its financial

responsibility if (1) the institution submitted to the Secretary third-party financial guarantees (performance bonds or letters of credit payable to the Secretary) equal to not less than one-half of the annual potential Title IV liabilities, loan obligations for deceased, bankrupt or disabled borrowers, and student refunds; (2) the school had its liabilities backed by the full faith and credit of a state; (3) established with a report of an independent certified public accountant that the school was a going concern capable of meeting all of its financial obligations; or (4) had met standards of financial responsibility prescribed by the Secretary.

The determination as to whether an institution met the standards of financial responsibility in the above paragraph must be based on an audited and certified financial statement of the institution. P.L. 102-325 detailed the standards for the financial statement. Further, to meet the financial responsibility standard the Secretary established requirements for the maintenance by the school of sufficient cash reserves to ensure the repayment of any required refunds. However, the Secretary will provide a process to exempt an institution from the cash reserve/refund standard if the institution was located in a state that has a tuition recovery fund that met the Secretary's cash reserve standard, the institution contributed to the fund, and it had the legal authority to operate within the state.

♦ **Administrative capacity standard.** The revised HEA provided an authorization for the Secretary to establish procedures and requirements relating to an institution's administrative capacities including consideration of past performance of institutions or persons in control of institutions with respect to student aid programs and the maintenance of records. Also, the Secretary may establish other reasonable procedures that contribute to ensuring postsecondary institutions complies with requirements for administrative capability.

♦ **Financial guarantees from owners.** In substantial detail, P.L. 102-325 required financial guarantees from participating institutions, those seeking to participate in Title IV programs, or from one or more individuals who exercised substantial control over an institution, in an amount, determined by the Secretary, to be sufficient to satisfy the institution's potential liability to the federal government, student aid recipients, and other Title IV program participants. Also, it required the assumption of personal liability, by one or more individuals who exercised substantial control over the institution for financial losses to the federal government, student aid recipients, and other Title IV program participants and for authorized civil and criminal monetary penalties. These provisions did not apply to any institution that (1) had not been subject to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding five years; (2) during its two most recent Title IV audits, had an audit finding resulting in the institution being required to repay an amount greater than five percent of the Title IV funds received; (3) meets, and has met, for the preceding five years the prescribed financial responsibility standards; and, (4) had not been cited during the past five years for failure to submit Title IV audits in a timely fashion.

♦ **Site visits and fees.** In acting on any application, the Department was required to conduct a site visit at each institution before certifying or recertifying its Title IV eligibility and the Secretary may charge a reasonable fee to cover the expenses of certification and site visits.

♦ **Time limitations on, and renewal of, eligibility.** Any current Title IV institution's eligibility expired in accordance with a schedule prescribed by the Secretary, but not later than five years after the date of enactment of P.L. 102-325. The schedule placed a priority for certification expiration on those schools that met the following criteria: (a) institutions subject to review by a state postsecondary review entity pursuant to Subpart 1 of Part H of the HEA or, (b) other categories of institutions which the Secretary deemed necessary. After the expiration of the institution's certification under the prescribed schedule or upon a request for initial certification, the Secretary may certify the eligibility of institutions for Title IV programs for a period not to exceed four years.

♦ **Treatment of branches.** For Title IV purposes P.L. 102-325 mandated that a branch of an eligible institution, defined by regulations from the Secretary, was a separate institution of higher education and must separately meet all Title IV requirements, except that a branch was not required to be in existence for two years prior to seeking such certification unless the institution was in existence as a branch for less than two years. The Secretary may waive the requirement of section 1201(a)(2) for a branch that is not located in a state, is affiliated with an eligible institutions, and was participating in one or more Title IV programs on or before January 1, 1992.

Program Review and Data

♦ **Program reviews.** In order to strengthen the Title IV administrative capability and financial responsibility provisions, the Secretary was required by the 1992 Amendments to conduct program reviews on a systematic basis designed to include all Title IV postsecondary institutions.

♦ **Priority.** Under terms of P.L. 102-325, the Secretary may give priority for program reviews to institutions that (1) had a Part B cohort default rate in excess of 25 percent OR placed the institution in the highest 25 percent of such institutions; (2) had a Part B default rate in dollar volume in the highest 25 percent of such institutions; (3) had a significant fluctuation in Stafford Loan volume or Pell Grant awards, or both, in the year for which the determination was made compared to the prior year; (4) had reported to have deficiencies or financial aid problems by a state postsecondary review entity or accrediting agency; (5) had high annual dropout rates; (6) was required to be reviewed by a state postsecondary review entity; and, (7) included other institutions as deemed necessary by the Secretary for a program review.

♦ **Data.** The Secretary was required to establish and operate a central database of information on institutional accreditation, eligibility, and certification that included all information available to the Department, along with all relevant information from the Secretary of Veterans Affairs, accrediting agencies, guaranty agencies, and states in their authorized review process outlined earlier in Subpart 1 of Part H.

♦ **Special administrative rules.** Under the 1992 Amendments, the Secretary was required to establish guidelines designed to ensure uniformity of practice in the conduct of programs

reviews. The Secretary was required to review the regulations of the Department and the application of regulations to ensure uniformity of interpretation and application of regulations. The data required to be collected, as described in the previous paragraph, was required to be readily available to all postsecondary institutions, guaranty agencies, states, and other organizations participating in Title IV. The Secretary was required to provide training to Department personnel, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews.

TITLE IX--GRADUATE PROGRAMS

PART A--GRANTS TO INSTITUTIONS TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION

♦ **Authorization of Grants/Appropriation.** P.L. 102-325 authorized $25 million in FY-93, and such sums in the out-years, for the Secretary to make grants to institutions of higher education, or a consortia of institutions, (1) to enable them to identify talented undergraduate students who demonstrated financial need, and who were individuals from minority groups underrepresented in graduate education or were women underrepresented in fields of study in graduate education; and (2) to provide such students with an opportunity to participate in a program of research and scholarly activities at institutions designed to provide such students with effective preparation for graduate study. FY-96 appropriation was $0.

♦ **Inclusion of women.** P.L. 102-325 expanded the current program to include women in fields in which they are underrepresented.

♦ **Information collection.** P.L. 102-325 directed the Secretary to collect information on student interns who have participated in the summer internship program and make the information available to institutions offering graduate programs as a means of identifying talented women and minority undergraduates for graduate study.

PART B--PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAMS

♦ **Purpose.** The Patricia Roberts Harris Fellowship Program provides, through institutions of higher education, a program of grants to assist in making available the benefits of masters and doctoral level, and professional education to individuals from minority groups underrepresented in masters, doctoral, and professional education and to women underrepresented in such education programs.

♦ **Awarding of funds.** Under terms of the HEA, 50 percent of the funds were required to be awarded to institutions for fellowships for masters and professional study, and 50 percent of the funds be awarded for fellowships for doctoral study.

♦ **Equitable distribution of funds.** To the maximum extent feasible, the HEA mandates that the Secretary ensure an equitable geographic distribution of awards, and an equitable distribution

among eligible public and independent institutions of higher education.

♦ **Awarding priority.** P.L. 102-325 maintained current law awarding priority to students pursuing study that leads to careers serving the public interest.

♦ **Reallotment.** The Secretary must reallot unused amounts to institutions which can use the funds.

♦ **Selection of institutions.** The law required in making grants to institutions, the Secretary shall (1) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; (2) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups which have been traditionally underrepresented in professional and academic careers requiring masters, professional or doctoral degrees; and (3) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of such groups.

♦ **Priorities for fellowships.** P.L. 102-325 established priorities for awards to individuals from minority groups and women pursuing masters, professional or doctoral level study in fields in which they are underrepresented; and for awards to individuals from these groups who are pursuing masters, professional or doctoral level study leading to careers that serve the public interest.

♦ **Institutional payments.** Under terms of the Act, the Secretary was required to pay (in addition to stipends paid to individuals under this program) to each institution, for each individual awarded a fellowship, $9,000 for award year 1993-94, to be adjusted annually thereafter according to the Consumer Price Index of inflation.

♦ **Amount of fellowships.** P.L. 102-325 set the fellowship stipend for new recipients at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need.

♦ **Requirements for awards.** The HEA prohibited a student enrolled in a masters, professional or doctoral program from receiving an award except during periods in which such student maintained satisfactory academic progress in, and devoted essentially full-time to study or research, or dissertation work in the field, and was not engaged in employment, other than part-time employment by the institution. For masters and professional students, such period shall not exceed the normal period for completing the program, or three years, whichever was less, except for special circumstances. For doctoral students, such period shall not exceed three years, consisting of not more than two years of support for study or research, and not more than one year of support for dissertation work, except for special circumstances.

♦ **Authorization/Appropriation.** P.L. 102-325 authorized $60 million for FY-93, and such sums as may be necessary for the 4 succeeding fiscal years. The program was not funded in FY-96.

PART C--JACOB K. JAVITS FELLOWS PROGRAM

♦ **Reauthorization.** The 1992 Amendments reauthorized the Jacob K. Javits Fellows Program.

♦ **Cap on number of fellowships.** P.L. 102-325 eliminated the cap on the number of fellowships that may be awarded.

♦ **Fellowship board.** The HEA limited the number of members on the Jacob K. Javits Fellows Program Fellowship Board to nine individuals.

♦ **Awards.** The HEA set the fellowship stipend level at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need.

♦ **Institutional allowance.** P.L. 102-325 set the institutional allowance at $9,000 and provided for inflationary increases. Also, it required that the amount of funds charged to a fellow for tuition and fees be subtracted from the institutional allowance and stated that a fellow, who had been informed in writing that he or she had been selected as a fellow and, then, was subsequently notified that he or she had been withdrawn due to a finding on the earned graduate criterion, shall receive the award unless the Department becomes aware that the fellow's application fraudulently contained inaccurate information.

♦ **Authorization/Appropriations.** Authorized $30 million in funding for FY-93 and such sums as may be necessary for the 4 succeeding fiscal years. FY-96 appropriation was $5.931 million.

PART D--GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

Grants to Academic Departments and Programs of Institutions

♦ **Reauthorization.** The 1992 Amendments reauthorized Grants to Academic Departments and Programs of Institutions

♦ **Maximum grant.** P.L. 102-325 raised the maximum grant per year from $500,000 to $750,000.

♦ **Teaching experience.** The HEA required departments to provide students with at least one year of supervised teaching experience.

Awards to Graduate Students

♦ **Reauthorization.** The HEA reauthorized Awards to Graduate Students.

♦ **Awards to graduate students.** P.L. 102-325 eliminated the current law requirement that at least 60 percent of the funds received for the program be used for graduate student stipends.

♦ **Fellowship stipend level.** The HEA set the fellowship stipend level at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need. It allowed institutions to supplement the stipends awarded under this part.

♦ **Institutional allowances.** P.L. 102-325 increased institutional allowances to $9,000 for academic year 1993-94 and provided for inflationary increases thereafter.

♦ **Use for overhead.** The Act prohibited funds made available under this program from being used for the general operational overhead of the academic department or program.

♦ **Authorization/Appropriations.** The reauthorization bill authorized $40 million for FY-93 and such sums as may be necessary for the 4 succeeding fiscal years. FY-96 appropriation was $27.252 million.

PART E--FACULTY DEVELOPMENT FELLOWSHIP PROGRAM

♦ **Program authorized.** P.L. 102-325 reauthorized the program to enable institutions to identify talented faculty and baccalaureate degree recipients from underrepresented groups to assist them in obtaining a doctoral degree.

♦ **Fellowship level.** The 1992 Amendments set the fellowship level at a level of support equal to that provided by the National Science Foundation Graduate Fellowships, not to exceed the student's demonstrated level of need.

♦ **Teaching requirement.** The HEA required one year of teaching for each year of assistance.

♦ **Authorization/Appropriations.** The 1992 Amendments authorized $25 million for FY-93 and such sums as may be necessary for the 4 succeeding fiscal years. FY-96 appropriation was $0.

PART F--ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

♦ **Reauthorization.** The 1992 Amendments reauthorized the program for Assistance for Training in the Legal Profession.

♦ **Program requirements.** The HEA required the Secretary to make a grant or contract directly to the Council on Legal Education Opportunity (CLEO) to carry out a program to assist minority, low-income, or educationally disadvantaged college graduates in the legal profession.

♦ **Administrative costs.** The Act provided for a 6 percent cap on funds which can be used for administrative costs.

♦ **Services authorized.** Legal training projects under this program may provide the following services: (1) assistance and counseling in gaining admission to accredited law schools; (2) a 6-

week intensive summer program designed to prepare minority, low-income or educationally disadvantaged individuals for the successful completion of legal studies; or, (3) an academic-year program of tutorial services, academic advice and counseling designed to assist eligible participants successfully complete their legal training, which included, but was not limited to, (a) instruction in reading, legal research, legal writing skills and problem analysis; (b) academic advice and assistance in course selection; (c) advisement about financing their legal education and available student financial aid; (d) personal and professional counseling relative to career alternatives in the legal profession and bar examination preparation; and, (e) any other activity consistent with the above which furthered the objectives of the program.

♦ **Use of funds.** P.L. 102-325 required the Secretary to cover all or part of the program costs of (1) engaging in activities as were reasonably designed to publicize the existence and availability of program funds; (2) selecting minority, low-income educationally disadvantaged individuals for training in the legal profession; (3) facilitating the entry of such individuals into law schools; (4) selecting from among all qualified applicants; (5) evaluating the quality, impact and continuing feasibility of the program; (6) providing, through the entities selected, for training designed to assist individuals chosen to successfully complete training for the legal profession; and (7) paying stipends to chosen individuals for periods of preliminary training for the legal profession during which they maintain satisfactory academic progress toward the J.D. or L.L.B. The law provided for the Secretary to pay for the administrative activities of entities involved.

♦ **Authorization/Appropriation.** The 1992 Amendments authorized $7 million for FY-93 and such sums as may be necessary for the 4 succeeding fiscal years. FY-96 appropriation was $0.

PART G--LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

♦ **Authorization/Appropriation.** The 1992 Amendments authorized the Law School Clinical Experience Program at $10 million for FY-93 and such sums as may be necessary for the 4 succeeding fiscal years. FY-96 appropriation was $5.5 million.

♦ **Use of funds to continue program.** The reauthorized Act clarified current law by stating that funds may be used to continue programs, as well as establishing or expanding them.

♦ **Limitation of amounts.** The revised HEA increased the annual maximum award that may be received by an institution to $250,000.

Note: A small number of the above summaries of P.L. 102-325 HEA changes have been modified by subsequent legislation. Consequently, these summaries reflect the 1992 reauthorization provisions as reported by the Congress and signed into law by the president which, again, may not reflect current law in a several cases. This document is offered as a resource so that one may understand what modifications were made at that time to stimulate your thinking about future modifications need in the Act.

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